

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

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|---------------------|---|-----------------------------|
| ROBERT DAVID STEELE |) | |
| <u>et al</u> |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | <u>Case 3:17-cv-601-MHL</u> |
| |) | |
| |) | |
| JASON GOODMAN |) | |
| <u>et al</u> |) | |
| |) | |
| Defendants. |) | |
| |) | |

**PLAINTIFFS' MEMORANDUM IN SUPPORT
OF MOTION *IN LIMINE***

Plaintiffs, Robert David Steele and Earth Intelligence Network (“Plaintiffs”), by counsel, pursuant to Local Civil Rule 7(F), respectfully submits this Memorandum in Support of their Motion *in Limine* [ECF No. 171].

1. On June 14, 2019, Goodman served and filed an initial disclosure statement pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure (the “Goodman Disclosures”). [ECF No. 125].

2. In the Goodman Disclosures, Goodman identified several individuals who he claimed were “likely to have discoverable information” that he might use to support his defenses.

3. Goodman never amended or supplemented the Goodman Disclosures.

4. In the Goodman Disclosures, Goodman represented that:

The Defendant intends to use the following documents in support of his case

- a. All documents identified and referred to in the parties' pleadings, including documents that are linked via internet URLs
- b. All documents produced in discovery by the parties;
- c. E-mails exchanged between Defendant Goodman and Plaintiff
- d. E-mails exchanged between Defendant Goodman and Co-Defendant Negron.
- e. E-mails exchanged between Defendant Goodman and Co-Defendant Lutzke
- f. E-mails and telephone calls between Defendant Goodman and Counsel for Plaintiff
- g. E-mails and telephone calls between Defendant Goodman and William F. Kernan
- h. All documents produced by third-parties in response to Rule 45 Subpoenas.

5. Goodman failed to produce copies of any of the documents identified in his Rule 26(a)(1)(A)(ii) disclosures.

6. On May 15, 2019, Plaintiff Steele served Goodman with a request for production of documents pursuant to Rule 34 (the "Requests"). A true copy of the Requests is attached hereto as Exhibit "A".

7. On May 29, 2019, Goodman filed responses to the Discovery Requests. [ECF No. 118].

8. Goodman objected to virtually every Discovery Request.¹

9. Goodman failed to produce an inventory list (*i.e.*, privilege log) for the documents he withheld from production under a claim of privilege.

¹ Goodman failed to comply with the procedures set forth in §§ 23-24 of the Court's Initial Pretrial Order for resolution of discovery disputes.

10. Goodman failed to produce *any* documents.
11. Goodman failed, without any justification, to comply with his obligations under Rules 26 and 34 of the Federal Rules of Civil Procedure. Plaintiffs and Defendant Negron would be prejudiced if Goodman is permitted identify witnesses and use documents at trial that he failed and/or refused to produce in discovery.

REQUEST FOR RELIEF

For the reasons stated above and at the hearing of this Motion, Plaintiffs respectfully request the Court to grant their Motion *in Limine* and preclude Goodman from calling any undisclosed witness and using documents that he failed and/or refused to produce.

DATED: January 17, 2020

ROBERT DAVID STEELE
EARTH INTELLIGENCE NETWORK

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Counsel for the Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2020 a copy of the foregoing was filed electronically using the Court's CM/ECF system, which will send notice of electronic filing to counsel for Defendant, Patricia A. Negron, and all interested parties receiving notices via CM/ECF. I also certify that a copy of this pleading was emailed in PDF to Defendants, Goodman and Lutzke.

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